

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **BAIL APPLN. 2470/2009**

NEELAM Petitioner
Through Mr.R.S.Soni, Advocate.

versus

STATE Respondent
Through Mr.R.N.Vats, APP.

CORAM:
HON'BLE MR. JUSTICE V.K. JAIN

% **ORDER**
23.12.2009

Crl.M.A.15007/2009 (exemption)

Allowed, subject to all just exceptions.

Crl.M.A.15007/2009 stands disposed of.

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A perusal of the report filed before the Metropolitan Magistrate as well as a perusal of the report filed by the Additional Sessions Judge, a copy of which has been placed by the petitioner herself, would show that the petitioner who was known to the wife of Shri Chand Kumar instigated them to apply for old age pension which is given to the persons living below the poverty line. They handed over the copies of genuine ration card to the petitioners along with two photographs. The Report further shows that a sum of Rs.4,500/- was paid to the petitioner by Mr.Chand

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Kumar on 20.7.2009, after he had withdrawn Rs.5,000/- from his account with Punjab National Bank. The deal was struck in the presence of his wife, his sister-in-law, and a neighbour Mr.Atul Tripathi, a journalist by profession. All these persons have been examined during investigation and they have corroborated the version given by Mr.Pandey. In these circumstances, the investigating agency wants custodial investigation of the petitioner in order to unearth the conspiracy pursuant to which documents were forged and pension meant for persons living below poverty line was sanctioned. The suspicion of the investigating agency is that there was a nexus between the petitioners and some officials of Social Welfare Department, pursuant to which the pension was sanctioned on the basis of forged documents.

In ***Pokar Ram vs. State of Rajasthan***, AIR 1985 SC 969, the Hon'ble Supreme Court observed as under:-

“Relevant considerations governing the court’s decision in granting anticipatory bail under Section 438 are materially different from those when an application for bail by a person who is arrested in the course of investigation as also by a person who is convicted and his appeal is pending before the higher court and bail is sought during the pendency of the appeal. These situations in which the question of granting or refusing to grant bail would arise, materially and substantially differ from each other and the relevant considerations on which

the courts would exercise its discretion, one way or the other, are substantially different from each other."

In ***State of Andhra Pradesh vs. B.K.Kundu***, JT 1997 (8) SC 382, the Hon'ble Supreme Court held that when the accused is pitted against allegations involving a well orchestrated conspiracy, he should not have been granted anticipatory bail. In ***CBI vs. Anil Sharma***, JT 1997 (7) SC 651, the Hon'ble Supreme Court observed that the effective investigation of the suspect is of tremendous advantage in disinterring useful information and also the material which would have been concealed. It was further observed that the success in such interrogation would elude if the suspect persons knows that he is well insulated and protected by the pre-arrest bail order, during the time he is interrogated and very often interrogation in such a condition would be reduced to a ritual.

Since custodial interrogation of the petitioner is necessary, in order to ascertain how and where documents in question were forged and to find out whether there was any nexus between her and the officials of the Social Welfare Department, it would not be appropriate to grant anticipatory bail to petitioner at this stage.

Dismissed.